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7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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11 CHARLES P. HAGGARTY and GINA  
12 M. HAGGARTY, on behalf of  
13 themselves and all others similarly  
situated,

14 Plaintiffs,

15 v.  
16

17 WELLS FARGO BANK, N.A.,

18 Defendant.  
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Case No.: 10-2416 CRB (JSC)

**ORDER RE: DEPOSITION OF  
FRANKLIN CODEL (Dkt. No. 100)**

21 The Court is in receipt of a joint letter by the parties regarding a dispute over  
22 Plaintiffs' desire to depose Franklin Codel. (Dkt. No. 100.) Defendant claims that Mr. Codel  
23 is an "apex employee" and can only be deposed if he has unique and non-repetitive  
24 knowledge pertinent to the case after less intrusive means of discovery have been exhausted.  
25 (Dkt. No. 100 at 5). Plaintiffs counter that tardy document production by Defendant  
26 belatedly revealed that Mr. Codel "appears to have been actively involved both in Wells  
27 Fargo's decisions, and the execution of those decisions, at the root of this case." (*Id.* at 7.)  
28 Plaintiffs dispute that a less intrusive means of discovery would suffice to capture Mr.

1 Codel's unique knowledge and detail unsuccessful attempts to query less senior employees.  
2 In particular, "Plaintiffs believe Wells Fargo's documents reveal approximately \$1 billion of  
3 unaccounted-for COFI ARM notes" about which Mr. Codel would likely have information.  
4 (Id. at 7-8.) Defendant does not respond to these points. Plaintiffs have already deposed two  
5 of the three witnesses Defendant maintains should replace Mr. Codel.

6 The Court finds as follows:

- 7 1. Plaintiffs should take this third deposition.
- 8 2. Within two business days following the third deposition, Defendant shall file a  
9 further written submission with the Court which explains why Mr. Codel's  
10 deposition is unnecessary. Defendant's response shall address the arguments  
11 made by Plaintiffs in the Joint Statement. Plaintiffs' response, if any, shall be  
12 filed within two business days of Defendant's submission.
- 13 3. In the interim, both parties shall agree on a deposition date for Mr. Codel on or  
14 before August 31, 2012 should his deposition be necessary.

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16 **IT IS SO ORDERED.**

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18 Dated: August 14, 2012

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20 JACQUELINE SCOTT CORLEY  
21 UNITED STATES MAGISTRATE JUDGE  
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